

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Harry Nick Carter, et. al.  
Serial No.: 09/884,661  
Filed: June 19, 2001  
For: Multimedia Synchronization Method and Device  
Group Art Unit: 2171  
Examiner: Unknown  
Attorney Docket Number: AREQU.0101

---

RECEIVED

DEC 11 2003

Technology Center 2100

**STATEMENT OF DAVID W. CARSTENS IN SUPPORT  
OF PETITION TO MAKE SPECIAL UNDER 37 C.F.R. 102(d)**

In accordance with the provisions of 37 C.F.R. § 1.102(d), the undersigned hereby makes the following written statement:

1. My name is David W. Carstens. I am over the age of twenty-one and fully competent to make the following statement and have knowledge of the facts set forth herein.

2. I am an attorney registered to practice before the United States Patent & Trademark Office ("PTO"), Registration No. 34,134, and have prepared this Petition to Make Special for the above-identified application and make the following statements in support of the Petition to Make Special the above-identified application.

3. There is an infringing multimedia apparatus and system that allows a user to record store, download and upload digital content, both audio and video, that is manufactured by AMX Corporation. I have made a rigid comparison of the claims in the above-identified application with the multimedia device manufactured by AMX Corporation. It is my opinion that Claims 1, 2, 4, 5, 8 and 9 of this application are unquestionably infringed by the apparatus and system embodied in AMX Corporation's MAX-MMS Multimedia Server, as shown in Exhibit B, and as set forth in the

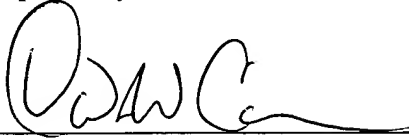
Claim Infringement Chart attached hereto as Exhibit B depicting the elements of the MAX-MMS multimedia devices that infringe upon the Applicants' identified claims. This infringement analysis is made only with respect to the independent claim 1 and dependent claims 2, 4, 5, 8 and 9. There may be other claims within the Applicants' application which are being infringed by the identified apparatus or system.

5. I have caused to be made a careful and thorough search of the prior art. I instructed Scott Harper, Registration No. 45,783, who is an attorney with my firm, to contact Rodger Flagg, with Express Search, Inc., to conduct a patent novelty search for a multimedia electronic device with integral storage capability which maybe connected to any type of network. The multimedia device can be connected with other similar devices on the network and upload, download and synchronize content so as to allow users to have their multimedia content available for use on each networked device as set forth in the claims of the Applicants' pending application. Examiner Viet Vu in Art Unit 2758 was consulted and a novelty search was conducted. Exhibit C contains copies of the prior art search results and references deemed most closely related to the subject matter encompassed by the claims in the above-identified application. I have reviewed these references and others previously submitted with the Information Disclosure Statement, thereby obtaining a good knowledge of the pertinent prior art. None of the pertinent prior art, alone or in combination, discloses or teaches Applicants' invention.

6. I hereby declare that all statements made herein of my own knowledge are true and that all statements made herein on information and belief are believed to be true. Further, I made these statements with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements may jeopardize the validity of the application or any registration issuing thereon.

Dated: December 4, 2003

Respectfully submitted,



---

David W. Carstens  
Registration No. 34,134  
CARSTENS, YEE & CAHOON, L.L.P.,  
P.O. Box 802334  
Dallas, TX 75380  
972.367.2001 *Telephone*  
972.367.2002 *Facsimile*  
Attorney for Applicant